

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ANTONIO FREEMAN §
v. § CIVIL ACTION NO. 6:15cv278
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Antonio Freeman, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his burglary conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Freeman was ordered to file his petition on a standard §2254 petition form and to pay the statutory filing fee of \$5.00 or properly seek leave to proceed *in forma pauperis*. When he did not comply with either order, the magistrate judge issued a report recommending that the petition be dismissed without prejudice for failure to prosecute or to obey an order of the Court.

A copy of the magistrate judge's report was sent to Freeman at his last known address, return receipt requested, but no objections have been received; instead, Freeman wrote a letter stating that "the only way I'm going to respond back to anything you say, do, or want, is you tell me out of your own mouth, I'm getting a new sentencing or trial." Because Freeman filed no objections, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the report of the magistrate judge. Upon such review, the Court has determined that the report of the magistrate judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a magistrate judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the report of the magistrate judge (docket no. 9) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

SIGNED this 7th day of March, 2016.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE